

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
AUGUST 8, 2018**

CALL TO ORDER A meeting of the Flathead County Planning Board was called to order at
6:00 pm approximately 6:00 p.m. at South Campus Building, 40 11th Street W, Ste.
200, Kalispell, Montana. Board members present were Jeff Larsen, Greg
Stevens, Sandra Nogal, Dean Sirucek, Ron Schlegel, Kevin Lake, and James
Thompson. Mike Horn had an excused absence. Mark Mussman, Erik Mack,
and Donna Valade represented the Flathead County Planning & Zoning
Office.

There were 23 members of the public in attendance.

APPROVAL OF Sirucek made a motion, seconded by Stevens, to approve the July 11, 2018
MEETING meeting minutes.
MINUTES

6:01 pm Motion carried by quorum.

PUBLIC None
COMMENT
(Public matters that
are within the
jurisdiction of the
Board 2-3-103
M.C.A)
6:01 pm

DJS FARMS A request from DJS Farms, Inc. with technical assistance from Sands
(FCMU-18-01) Surveying, Inc. for a Major Land Use Review for a 'Guest Cabins' that will
6:02 pm include four guest cabins, two existing and two new guest cabins, within the
Middle Canyon Region of the C.A.L.U.R.S (Canyon Area) Zoning District.
The proposal includes replacing a single family dwelling, which was torn
down in 2017, with a small cabin and a new cabin on approximately 9.5 acres.
In the future, the applicants may wish to replace a 'bunkhouse' with a small
cabin. Access would be from Sloan Lane in West Glacier.

STAFF REPORT Valade reviewed staff report FCMU-18-01 for the board.
6:02 pm

**BOARD
QUESTIONS
6:05 pm**

Larsen wondered if the applicant could get a building permit. Valade replied the county did not issue building permits for residential structures. Larsen said that they would need to strike the condition.

**APPLICANT
PRESENTATION
6:06 pm**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicant. He said he was in agreement with the staff report and what had been presented. He discussed COSA and the process of working with DEQ as properties were split and/or changed use. He said this was a family project in which the applicant was placing the cabins on the site for extended family to visit.

**BOARD
QUESTIONS
6:07 pm**

None

**AGENCY
COMMENTS
6:08 pm**

None

**PUBLIC
COMMENT
6:09 pm**

Elizabeth Bolles, 641 Sloan Lane, spoke in opposition of the application. She informed the board of events she had witnessed where the applicant was doing construction during the night. She was opposed to adding more cabins to what he already had and was in violation of the zoning district. She said she could attest that it had been rented outside the family and not a “family affair” like stated. She felt the applicant was trying to intimidate her and her family by moving his bulldozer down the county road and was concerned he would block her road. She said the situation was causing her great anxiety.

John Bolles, 665 Sloan Lane, spoke in opposition of the application. He said the applicant had made an illegal septic system that dumped in to the river. He said the applicant was already renting out some of the buildings that he said were illegal dwellings. He was concerned it was going to become similar to a KOA set up due to the fact that he already had 4 or 5 campers and 3 cabins currently on the property.

Ben McCrorie, 1300 Belton Stage Road, spoke in opposition of the application. He felt it was his public right to speak his opinion and felt relocating the bulldozer at the end of their road was a “crappy” thing to do and he felt they were being bullied.

**APPLICANT
REBUTTAL/
COMMENTS
6:15 pm**

David Sykes, 635 Sloan Lane, wanted to address items that were brought before the board. He said there had been a septic system that had not been recorded because it had been there since 1950. There had been a home there previously. He addressed the blue tubs on the property and what they were there for. He said the gravel was there to build up the road at the top down to where they accessed the property. He did not feel he needed a building permit

for the cabins that they had put in because they were in compliance. He said the landscaper, who they hired, moved the bulldozer and was utilizing that space but had mechanical problems. It had been moved already.

**STAFF
REBUTTAL/
COMMENTS
6:18 pm**

None

**BOARD
DISCUSSION
6:00 pm**

**MAIN MOTION
TO ADOPT F.O.F.
(FCMU-18-01)
6:18 pm**

Stevens made a motion, seconded by Sirucek, to adopt staff report FCMU-18-01 as findings of fact.

**BOARD
DISCUSSION
6:19 pm**

Sirucek asked the staff if there were any conflicts with what was being proposed versus the canyon area land use plan. Valade said that she did not identify anything when she received the application and the letter received did not change her findings.

Larsen explained that a COSA would require the cabins to work with DEQ and get their approval to continue.

**ROLL CALL TO
ADOPT F.O.F.
(FCMU-18-01)
6:21 pm**

Motion was passed on a roll call vote.

**BOARD
DISCUSSION
6:00 pm**

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FCMU-18-01)
6:21 pm**

Stevens made a motion, seconded by Nogal, to recommend approval of FCMU-18-01 to the Board of County Commissioners.

**BOARD
DISCUSSION
6:21 pm**

Stevens recommended approval but said he understood the heartburn of the neighbors towards activity near their property. He found it interesting that the local land use advisory committee (MCLUAC) recommended approval as

well. He understood the confusion of the COSA and restrictions placed on it. He did not see any legal reasons to stand in the way of the project. He listened to the neighbors and greatly valued their input but he didn't always vote that way either. He thanked the public for taking the time to talk to a board and presenting their concerns to them.

Larsen was concerned about some of the conditions. He felt that condition 4 needed to be taken out because that type of building would not be able to obtain a building permit.

**MOTION TO
STRIKE
CONDITION #4
6:25 pm**

Schlegel made a motion, seconded by Lake, to strike Condition #4 from the staff report.

**BOARD
DISCUSSION
6:25 pm**

None

**ROLL CALL TO
STRIKE
CONDITION #4
6:25 pm**

Motioned passed unanimously on a roll call vote.

**MOTION TO
AMEND
CONDITION #1
6:26 pm**

Schlegel made a motion, seconded by Nogal, to amend condition #1 to read as:

This major land use permit allows for the placement of ~~one~~-two Guest Cabins on the subject property. This major land use permit does not contemplate any additional activity and shall not act as a permit for such activity without further interpretation and review by the Zoning Administrator, in conformance with the applicable regulations

**BOARD
DISCUSSION
6:26 pm**

None

**ROLL CALL TO
AMEND
CONDITION #1
6:26 pm**

The motion passed unanimously on a roll call vote.

**BOARD
DISCUSSION
6:26 pm**

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FCMU-18-01)
6:26 pm**

The motion passed unanimously on a roll call vote.

**LUPFER
HEIGHTS
SUBDIVISION
(FPP-18-06)
6:27 pm**

A request from Joe Carman Jr., on behalf of Whispering Trails, LLC for preliminary plat approval of Lupfer Heights Subdivision, a proposal to create 12 lots (9 lots intended for residential use, one lot intended for commercial use and two lots for either commercial or residential use) on 142.8 acres. Each lot would be served by on-site wells and septic. The properties are located at 205 and 309 Lupfer Road near Whitefish, MT in an unzoned area.

**STAFF REPORT
6:28 pm**

Valade reviewed staff report FPP-18-06 for the board.

**BOARD
QUESTIONS
6:30 pm**

Larsen asked if they were required to pave the road and asked the staff for clarification as to what would be paved and what would be graveled.

He also questioned what fire district it was in and said that needed to be updated in condition #2. Schlegel thought that it may be a part of "no man's land"; which meant that they were contracted out to different fire districts. He wasn't sure about that but said it happened a lot in that area. Valade also notated that the applicant had developed a fire suppression system with a hydrant that was supplied by a pond located across the upper road.

Stevens asked if there was an intermittent stream that flowed from north to south.

Sirucek commented that part of the staff report that mentioned the subdivision's close proximity to HWY 35 would provide quick escape in the event of a fire. He felt that in some occasions that may be true and in others it may not be true (i.e. a fire coming from the west, which was predominately the case in that area). There were other access to get out but they were fairly long and some of them had wildlife management gates depending on the time of year. He made the point that in some conditions that was a true statement and in other conditions it was not a true statement. Valade said she had quoted the EA but the applicant was present so they were now aware of his comments.

**APPLICANT
PRESENTATION
6:35 pm**

Dave DeGrandpre, 36708 Leon Rd., in Charlo, represented the applicant and was available for questioning. He discussed the ground water monitoring process they went through. He also addressed road pavement and requirements through the subdivision process. He said that they were ok with

paving the stretch prior to final plat. He also addressed their approach to fire protection. They had worked with the Hazardous Fuel Reduction Program and got a prescription to reduce the vegetation in lot 8 and 9. They had started the cleanup and will burn it in the fall. He also talked about providing a water tank for the fire department and wanted them to know that they were taking the issue seriously.

**BOARD
QUESTIONS**
6:41 pm

Larsen questioned if Lot 10 was going to have a direct access to the highway. DeGrandpre said that it was actually a county road, which will mostly be where the access would come from because it was an existing approach. Larsen wondered if Lot 9 was going to access off the highway as well. DeGrandpre said lot 8 and 9 would come off of Lupfer road.

**AGENCY
COMMENTS**
6:42 pm

No agencies were present at the meeting. Larsen reviewed the written comment from the County Health Department in which they did not seem to have a problem with the subdivision.

**PUBLIC
COMMENT**
6:43 pm

Kristen Hutson, 1165 Lupfer Rd., spoke in opposition of the application. She expressed concern of more people coming out to the area. She said, as it was, she already gets a lot of traffic coming to their house because people were trying to find access to the Whitefish Trail head. She said there was actual access from her driveway to the said property. She was also concerned about dust control and winter road maintenance due to the steep hill going in to the road.

Matthew Hutson, 1165 Lupfer Rd, spoke in opposition of the application. His greatest concern was fire safety. He said that they already had traffic concerns and more people would also create more issues with their road. He was also concerned about the wildlife habitat being affected.

**APPLICANT
REBUTTAL/
COMMENTS**
6:48 pm

None

**STAFF
REBUTTAL/
COMMENTS**
6:48 pm

None

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-18-06)**
6:49 pm

Schlegel made a motion, seconded by Nogal, to adopt staff report FPP-18-06 for as findings of fact.

**BOARD
DISCUSSION
6:49 pm**

None

**ROLL CALL TO
ADOPT F.O.F.
(FPP-18-06)
6:49 pm**

Motion was passed on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FPP-18-06)
6:50 pm**

Lake made a motion, seconded by Schlegel, to recommend approval of FPP-18-06 to the Board of County Commissioners.

**BOARD
DISCUSSION
6:50 pm**

Stevens was concerned about the public comment regarding the steep road. DeGrandpre said he agreed with what she had said and explained the topography of the land and said it was about a 10% grade. He felt lots 8 and 9 had safe access that was accessible.

Stevens wondered what the site distance was for lot 8 and 9 from going up the hill to where they would access it. DeGrandpre said he could not give him an exact number but, by his recollection, he felt it was ok.

Schlegel said that they would have to get a road approach permit that would take care of that but he wondered where the pavement would be. DeGrandpre pointed it out on the preliminary plat map. He said the developer would also pave an addition 480' from that point.

Larsen addressed the comment that was made about one access being an issue. DeGrandpre said people could turn around in driveways. He pointed out that there wasn't a designated turn around. DeGrandpre said that there will be a turnaround put in close to the water supply. Larsen pointed out that it looked like a turnout could be put in between lot 11 and 12. Larsen also questioned why they would not be paving any further. DeGrandpre said that it was an economic thing. DeGrandpre said it was not the developer's responsibility to address the existing traffic; only the potential traffic.

There was board discussion regarding fire hazards coming from the railroad. Stevens said the first forest fire he ever fought was in that area. He was aware that the railroad could cause fires but on the other hand he was aware there was going to be a water source out there that wasn't there before.

**MOTION TO
AMEND**

Nogal motioned, seconded by Sirucek, to amend Condition #2 to read:

The developer shall comply with reasonable fire suppression and

CONDITION #2

7:00 pm

access requirements of the ~~Evergreen Fire District~~ *Flathead County Fire Service Area and Olney Fire District*. A letter from the fire chief stating that the plat meets the requirements of the Fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b) FCSR]

**BOARD
DISCUSSION**

7:00 pm

None

**ROLL CALL TO
AMEND
CONDITION #2**

7:00 pm

Motion passed unanimously on a roll call vote.

**BOARD
DISCUSSION**

7:00 pm

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-18-06)**

7:00 pm

The motion passed unanimously on a roll call vote.

**LINDA BREVIK
ZONE CHANGE
(FZC-18-14)**

7:02 pm

A zone change request by Glacier Surveying, on behalf of Linda E. Brevik for property located on Hogue Drive in Bigfork, Montana, within the Holt Zoning District. The proposal would change the zoning on a parcel containing approximately 5.88 acres from *SAG-10 (Suburban Agricultural)* to *R-1 (Suburban Residential)*.

**SIRUCEK
RECUSED
HIMSELF**

7:02 pm

STAFF REPORT

7:02 pm

Erik Mack reviewed staff report FZC-18-14 for the board.

**BOARD
QUESTIONS**

7:06 pm

None

**APPLICANT
PRESENTATION**
6:06 pm

Robert Wonderlich with Glacier Surveying, 2383 Foothill Rd., represented the applicants. He presented maps that helped identify where the property was located. He addressed concerns brought up at BLUAC, including the water line. He said that water service was terminated at Boat Club Drive and that's where the main currently was located. He addressed the concern about the easement and said that it had been documented. He said the applicant was present and available for questions.

**BOARD
QUESTIONS**
7:10 pm

None

**AGENCY
COMMENTS**
7:10 pm

None present.

Larsen asked the staff to go over some of the written agency comments.

**PUBLIC
COMMENT**
7:11 pm

Bob Hoene, 281 Chapman Road, spoke in opposition of the application. He had lived there since 1993 and addressed the issue of the road being a badly maintained, one way road. He said there had a road user agreement established when the road was put in and 90% of the people that were on that agreement had passed away. People used their tractors in the past to maintain it but that rarely happened now. He said an easement was granted in 1966 to Ron Munter in which the easement road was supposed to run entirely on his property. The Hoenes had a survey done and Munter had violated the rules of the easement by constructing the road ½ on their property. They had never granted an easement for the use of a road. He asked the board delay making a recommendation until the applicants present a development plan because of the concerns of sanitation, the road, and the water. He said he was not against development, and land owner's rights, but he wanted the questions addressed. He said BLUAC recommended a denial of the application and he asked that the Planning Board table it.

Jason Lanier, 95 Hogue Drive, spoke in opposition of the application. He was not against development but was concerned about maintenance and the development of the road. He said during the winter it was plowed as a one way road and was concerned about the addition of 30 cars on that road.

Linda Brevik, 170 Fennon Way, was the applicant and wanted to share the history of the land that had been inherited from her father, who was no longer with them. She said they were looking for the best way to use the land.

Paula Wunderlich with Glacier Surveying, 2383 Foot Hill Road, addressed the road maintenance agreement. She said that it was filed in 1989. Mr. Munster had owned all of the land. He was consistent and meticulous with the easement and consistent with how he passed that easement along. She had the document available for the board to view.

Marge Hoene, 281 Chapman Hill Road, spoke in opposition of the application. She believed a road agreement was in place but nobody did anything about it and felt it was no longer relevant. She also said she was not questioning the easement her she was questioning where the road was.

Karina Lanier, 95 Hogue Drive, spoke in opposition of the application. She was in agreement with what had been shared earlier. She pointed out there were further properties that already had approval for development, should they choose to develop the road and biggest concern was traffic.

**APPLICANT
REBUTTAL/
COMMENTS**
7:25 pm

Wunderlich commented on the size of the properties in that particular area and pointed out, on a map, the non-compliant properties in the designated SAG-10 zoning.

**STAFF
REBUTTAL/
COMMENTS**
7:27 pm

None

BOARD BREAK
7:27 pm

The board took a break to review materials put in front of them before the meeting.

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-18-14)**
7:34 pm

Schlegel made a motion, seconded by Nogal, to adopt staff report FZC-18-14 as findings of fact.

**BOARD
DISCUSSION**
7:35 pm

Stevens reviewed the BLUAC Addendum Summary of Findings. He read the regulations and said that the neighborhood specifically designated the property as suburban Residential; R-2.5, R-1, and RC-1. He felt as though people were getting the cart before the horse because they were not talking about a subdivision proposal at this time, they were talking about zoning. It was not known if there would even be a subdivision proposal and, if so, what it would entail. He said he had never seen a preliminary plat prepared without knowing what the zoning would be. He reminded people that this was a zoning proposal not a subdivision proposal. He addressed the BLUAC comment that the proposed amendment may have a negative impact on public health. He felt BLUAC was "muddying up the waters" between subdivision approval vs. zone change approval. He felt the issue of the road being substandard was moot because it would be addressed during a subdivision proposal. He said he could not put a whole lot of credibility in the BLUAC addendum because he believed they were imputing subdivision issues. He said the Flathead County Planning and Zoning Staff Report did not confuse the issue. He also said that the road maintenance agreement was recorded and did not matter if the property had legally changed hand.

Larsen said he was in agreement with what Stevens had voiced. They had to look at the zone change and not the impact of a possible subdivision. He explained the regulations that would come in to place with a subdivision review and at that time they would address the neighbor concerns with conditions. He said, as a board, they had to look at the zone change request and not the potential of a future subdivision. He agreed with the staff's finding of facts as well as the spot zoning.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-18-14)
7:49 pm**

The motion was passed on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-18-14)
7:50 pm**

Schlegel made a motion, seconded by Lake, to recommend approval of FZC-18-14 to the Board of County Commissioners.

**BOARD
DISCUSSION
7:50 pm**

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-18-14)
7:50 pm**

The motion passed unanimously on a roll call vote.

**TEXT
AMMENDMENTS
(FSTA-18-01)
7:51 pm**

A request by the Flathead County Planning Board for amendments to the Flathead County Subdivision Regulations in order to comply with recent changes to the Montana Subdivision and Platting Act. The amendments include changes to the following sections of the regulations: 4.1.8 regarding findings of fact, 4.1.11 regarding extensions for preliminary plats, 4.1.14 and 4.1.15 regarding time limits for application review, 4.4.2 regarding phased subdivision, 4.5 regarding subdivisions which create multiple lots for recreational vehicle camping and manufactured homes, 4.8.3 regarding land exempt from subdivision review, revised definition of "phased subdivision," and amendments to Appendix F.

**STAFF REPORT
7:52 pm**

Mussman reviewed all recommended changes in FSTA-18-01 for the board.

**BOARD
QUESTIONS**
8:08 pm

None

**APPLICANT
PRESENTATION**
8:08 pm

The county was the applicant for this file. Mussman made a point to say that, although they may recognize that there may be some other changes that might need to be made, many of the ones mentioned were a direct result in changes in state law over the last several years. He also noted that the recommended changes had been run by legal.

**AGENCY
COMMENTS**
8:09 pm

None

**PUBLIC
COMMENT**
8:10 pm

None

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FSTA-18-01)**
8:10 pm

Stevens made a motion, seconded by Sirucek, to recommend approval of FSTA-18-01 to the Board of County Commissioners.

**BOARD
DISCUSSION**
8:10 pm

Stevens thanked the staff for a job well done.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FSTA-18-01)**
8:11 pm

The motion passed unanimously on a roll call vote.

**TEXT
AMMENDMENTS
(FZTA-18-02)**
8:11 pm

A request by the Flathead County Planning Board for multiple amendments to the Flathead County Zoning Regulations. The character of many of the purposed amendments can generally be described as ensuing consistency in language throughout the regulations and to rearrange the placement of use districts in a more logical order. More significant amendments include, but are not necessarily limited to: eliminating zoning use districts from the regulations, renaming other zoning use districts, complete revision of the sign regulations, and adding and deleting definitions.

STAFF REPORT**8:12 pm**

Mussman reviewed staff report FZTA-18-02 for the board.

There was board discussion asking for clarification as a part of the review.

Mack reviewed the amendments for signage.

**BOARD
QUESTIONS****9:32 pm**

Mussman discussed how to process this. It was decided they would table the amendments for next month and the public hearing would continue.

**AGENCY
COMMENTS****9:36 pm**

None

**PUBLIC
COMMENT****9:36 pm**

Greg Nelson, 264 El Rancho Rd., questioned the need to change AG-80 to AG-20.

Mussman pointed out that 2.9% of the parcels zoned AG-80 are compliant when it came to minimum lot size.

Nelson clarified that he questioned if he could subdivide an AG-80 in to 4 AG-20 lots. Mussman said you could. Nelson said that it didn't bother him but he recognized that there was contentious zoning issues (i.e. Egan Slough) but their neighborhood had decided to make their area AG-80 and he wondered if the new regulations would negate that.

Mussman said if it was currently zoned AG-80 and the current proposal was approved, then it would become zone AG; with a minimum lot size of 20 acres.

Nelson was concerned about what would happen to those who had intentionally purchased 80 acres or 40 acres for the rural atmosphere. Mussman said that currently only 13% of the AG-40 met the minimum lot size. He said that he would ask staff to run numbers as to how many conforming AG-20 properties there were. Nelson was concerned that there would be legal issues if it were changed. Stevens brought up the point that in order to split AG-80, you had to have 160 acres. In order to split AG-40, you had to 80 acres. Larsen pointed out that with the new proposal, there would have to be 40 acres to split in to two 20 acres. Sirucek said that was something he really wanted to address with family transfer/splits. He was concerned that was creating zoning creep. He had worked up a proposal to present at next meeting.

**MOTION TO
TABLE
(FZTA-18-02)
9:42 PM**

Schlegel made a motion, seconded by Sirucek, to table FZTA-18-02 to continue the public hearing until the FCPB September 12, 2018 meeting.

**BOARD
DISCUSSION
9:42 pm**

None

**ROLL CALL TO
TABLE
(FZTA-18-02)
9:42 pm**

Motion was passed on a roll call vote.

**OLD BUSINESS
9:43 pm**

None

**NEW BUSINESS
9:43 pm**

None

**MEETING
ADJOURNED
9:43pm**

The meeting was adjourned on a motion by Sirucek and Nogal at approximately 9:43 pm. The next meeting will be held September 12, 2018.



Jeff Larsen, Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 9 / 12 /18